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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,015	03/29/2000	Simoni Ben-Michael	42390.P7283	6254

7590 02/18/2004

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EXAMINER

SAM, PHIRIN

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 02/18/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/538,015

Applicant(s)

BEN-MICHAEL ET AL.

Examiner

Phirin Sam

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-14 is/are allowed.
- 6) ☒ Claim(s) 1-6, 15, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-6, 15, 16, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalkunte et al. (U.S. Patent 6,078,591).

Kalkunte et al. discloses the invention (**claims 1, 15, 16, 18, and 19**) as claimed including a method for a PHY to resolve link frame collisions, the method comprising:

- (i) attempting to transmit a link frame if the PHY has not transmitted a frame in the last x second, where x is a positive real number (see Fig. 2a, col. 6, lines 33-36).
- (ii) if a frame collision is detected during step (i), attempting to transmit a link frame at a time interval after the last frame transmission attempt of the PHY has ended (see Fig. 2A, col. 6, lines 41-52).

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**Regarding claims 2 and 5**, Kalkunte et al. discloses (iii) repeat limitation (ii) each time a frame collision is detected until the number of link frame transmission attempts since the occurrence of limitation (i) equals a specified limit (see Fig. 2A, col. 6, lines 41-52).

**Regarding claims 3 and 6**, Kalkunte et al. discloses (iv) if in performing limitation (iii) the number of link frame transmission attempts since the occurrence of limitation (i) equals the specified limit, performing limitations (i) and (ii) upon allowing a random interval of time to elapse after the last link frame transmission attempt of the PHY has ended (see Fig. 2A, col. 6, lines 22-24, 33-35, 41-52).

**Regarding claim 4**, Kalkunte et al. discloses wherein the time interval is an Inter Packet Gap (IPG) (see Fig. 2A, col. 6, lines 22-24, 33-35).

***Allowable Subject Matter***

3. Claims 7-14 are allowed.
4. Claims 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-6, 11-13, 15, 16, 18, and 19 have been considered but are moot in view of the new ground(s) of rejection.

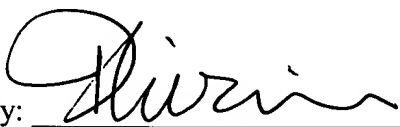
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*Conclusion*

6. Any query concerning this communication or earlier communications from the examiner should be directed to the examiner, Phirin Sam whose telephone number is (703) 308 – 9294. The examiner can normally be reached on Monday – Friday from 8:30AM – 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached at (703) 305 – 4703. The fax number for this group is (703) 872 – 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305 – 4700.

Respectfully submitted,

By:   
Phirin Sam  
Patent Examiner  
February 11, 2004